

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

DANIEL VALLEJO RECIO
Institutional ID No. 00598857
SID No. 4470928

Plaintiff,

V.

RUDY VASQUEZ, *et al.*,

Defendants.

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Civil Action No. 5:18-CV-00264-H

FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

On February 21, 2023, Judge Cummings accepted the recommendation and awarded the recommended amounts, plus interest and attorney fees. *See* Dkt. No. 127. Abstracts of judgments were later issued by the Clerk. Dkt. Nos. 131, 132. On March 28, 2025, Recio filed the Motion currently under consideration. Dkt. No. 138. As explained below, the undersigned now recommends that the Court direct the Clerk to complete and issue the writs of execution.

2. Legal standards

Rule 69 of the Federal Rules of Civil Procedure governs the execution of judgments in federal court. That Rule provides in pertinent part:

(a) In General.

(1) *Money Judgment; Applicable Procedure.* A money judgment is enforced by a writ of execution, unless the court directs otherwise. The procedure on execution—and in proceedings supplementary to and in aid of judgment or execution—must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies.

Fed. R. Civ. P. 69(a)(1). As in federal court, the primary means of enforcing money judgments in Texas is through the issuance of writs of execution, which is governed by Chapter 34 of the Texas Civil Practice and Remedies Code and Rules 629 and 630 of the Texas Rules of Civil Procedure.¹ Under Texas law, a writ must be issued within ten years of the judgment's entry to prevent the judgment from becoming dormant. Tex. Civ. Prac. & Rem. Code Ann. § 34.001 (West). Recio's Motion comes well within that ten-year period.

¹ Applications for the issuance of a writ must be filed within the time set by state law. 12 Charles Alan Wright & Arthur R. Miller, Fed. Prac. & Proc. § 3013 (3d ed.).

Although Recio did not strictly comply with the proper form for seeking writs of execution, here the information necessary for the writs' issuance is readily available to the Court and Clerk. Thus, the undersigned recommends that the Court direct the Clerk to issue Writs of Execution in substantially the same form as the exemplars attached as exhibit A to this FCR.²

3. Right to Object

If any party wishes to object to any part of these Findings, Conclusions, and Recommendation, the party must file specific written objections within fourteen days after being served with a copy of these Findings, Conclusions, and Recommendation. *See* 28 U.S.C. § 636(b)(1) (2017); FED. R. CIV. P. 72(B). To be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's Findings, Conclusions, and Recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).

² The Defendants "were terminated from their employment with the Texas Department of Criminal Justice" and Vasquez pleaded guilty criminally to intentionally subjecting Recio to excessive use of force and injury while acting under color of state law. Dkt. No. 72 at 3. Although it seems unlikely that the Defendants have non-exempt assets from which to satisfy Recio's judgment, the Court is not in a position to make this determination.

ORDERED this 22nd day of September 2025.



JOHN R. PARKER
UNITED STATES MAGISTRATE JUDGE

United States District Court
Northern District of Texas

Writ of Execution

Daniel Vallejo Recio

Plaintiff

v.

Michael Thomason

Defendant

Case No. 5:18-cv-00264-H

(Complete the following if judgment was rendered
in another district.)

District Northern District of Texas

Docket No. 5:18-CV-00264-H

Date Entered _____

TO ANY UNITED STATES MARSHAL IN THE STATE OF TEXAS:

WHEREAS, on the 21st day of February, A.D., 2023 in a cause styled as above, judgment was rendered in this Court, or other United States District Court as indicated above and registered herein, in favor of Daniel Vallejo Recio

against Michael Thomason,

hereinafter called judgment debtor, for the sum of \$ 100,000 with interest thereon at the rate of 4.97% percent per annum from the 21st day of February, A.D., 2023 until paid, together with costs which have been taxed to date by the Clerk of Court in the sum of \$ 19,697.50;

AND WHEREAS, according to an affidavit on the reverse side hereof, executed by or in behalf of the judgment creditor, there remains due and unpaid the following sums:

\$ 19,697.50 Unpaid balance of costs specified hereinabove taxed by the Clerk of Court

\$ 100,000 Judgment

\$ 10,672.37 Interest on Judgment, as of April 4, 2025.

and further interest will accrue on the unsatisfied judgment in the sum of \$ 15.34 per day from date of the aforesaid affidavit. *See* 28 U.S.C. 1961.

THEREFORE YOU ARE COMMANDED, that of the goods and chattels, lands and tenements of the said judgment debtor you cause to be paid the full amount of said judgment, interest, and costs, with the further costs of executing this writ.

HEREIN FAIL NOT, and have you the said monies, together with this writ, before this Court within ninety (90) days from the date of this writ.

WITNESS my hand and the seal of this Court at _____, Texas, this _____ day of _____, _____.

KAREN MITCHELL, CLERK

By _____
Deputy Clerk

AFFIDAVIT AND REQUEST FOR ISSUANCE OF WRIT OF EXECUTION

I, _____, judgment creditor or duly authorized agent or attorney acting in the capacity specified under my signature, do hereby swear or affirm that all of the recitals on the reverse side of this instrument, and any attachments thereto, relating to the entry of judgment and costs are true and correct; and, after application of all credits, first against costs, second against accrued interest, and third against the judgment as entered, there remains unpaid and unsatisfied the sums specified, and that further interest will accrue as shown.

Dated this ____ day of _____, A.D., ____.

Signature and capacity in which signed: _____

Address: _____

Telephone Number: _____

STATE OF Texas

COUNTY OF _____

I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.

Date: _____

Sign: _____

Print: _____

MARSHAL'S RETURN

Received this writ at _____, on _____
and executed as follows:

UNITED STATES MARSHAL

By _____
Deputy Marshal

**United States District Court
Northern District of Texas**

Writ of Execution

Daniel Vallejo Recio

Plaintiff

v.

Rudy Vasquez

Defendant

Case No. 5:18-cv-00264-H

(Complete the following if judgment was rendered
in another district.)

District Northern District of Texas

Docket No. 5:18-CV-00264-H

Date Entered _____

TO ANY UNITED STATES MARSHAL IN THE STATE OF TEXAS:

WHEREAS, on the 21st day of February, A.D., 2023 in a cause styled as above, judgment was rendered in this Court, or other United States District Court as indicated above and registered herein, in favor of Daniel Vallejo Recio

against Rudy Vasquez,

hereinafter called judgment debtor, for the sum of \$ 100,000 with interest thereon at the rate of 4.97% percent per annum from the 21st day of February, A.D., 2023 until paid, together with costs which have been taxed to date by the Clerk of Court in the sum of \$ 19,697.50;

AND WHEREAS, according to an affidavit on the reverse side hereof, executed by or in behalf of the judgment creditor, there remains due and unpaid the following sums:

\$ 19,697.50 Unpaid balance of costs specified hereinabove taxed by the Clerk of Court

\$ 100,000 Judgment

\$ 10,672.37 Interest on Judgment, as of April 4, 2025.

and further interest will accrue on the unsatisfied judgment in the sum of \$ 15.34 per day from date of the aforesaid affidavit. *See* 28 U.S.C. 1961.

THEREFORE YOU ARE COMMANDED, that of the goods and chattels, lands and tenements of the said judgment debtor you cause to be paid the full amount of said judgment, interest, and costs, with the further costs of executing this writ.

HEREIN FAIL NOT, and have you the said monies, together with this writ, before this Court within ninety (90) days from the date of this writ.

WITNESS my hand and the seal of this Court at _____, Texas, this ____ day of _____, _____.

KAREN MITCHELL, CLERK

By _____
Deputy Clerk

AFFIDAVIT AND REQUEST FOR ISSUANCE OF WRIT OF EXECUTION

I, _____, judgment creditor or duly authorized agent or attorney acting in the capacity specified under my signature, do hereby swear or affirm that all of the recitals on the reverse side of this instrument, and any attachments thereto, relating to the entry of judgment and costs are true and correct; and, after application of all credits, first against costs, second against accrued interest, and third against the judgment as entered, there remains unpaid and unsatisfied the sums specified, and that further interest will accrue as shown.

Dated this ____ day of _____, A.D., ____.

Signature and capacity in which signed: _____

Address: _____

Telephone Number: _____

STATE OF Texas

COUNTY OF _____

I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.

Date: _____

Sign: _____

Print: _____

MARSHAL'S RETURN

Received this writ at _____, on _____
and executed as follows:

UNITED STATES MARSHAL

By _____
Deputy Marshal